

Rights arising from defective performance

Abstract

This diploma thesis examines the institute of rights arising from defective performance. It contains not only a theoretical description of the effective legislation but also practical examples on which the theoretical background and knowledge are demonstrated.

In addition to institutes of default and liability for damage, the institute of rights arising from defective performance is a key institute of ensuring the proper and timely fulfilment of the obligation. Considering how often practically one of the parties to the obligation performs defectively, it is difficult to imagine a private right of obligation without the institute of rights arising from defective performance.

The factual position of the parties to the obligation is often unequal, which is the reason why the legislator strives to protect the weaker party both through general protective institutes and through special legal regulation of rights arising from defective performance. Due to the existence of several special legal regulations, and in some cases unclear relations between them, the Czech legal regulation of rights arising from defective performance is often criticized as confusing and complicated.

The thesis is systematically divided into four parts. The first part provides definitions of fundamental terms related to the rights arising from defective performance. The second part of the thesis deals with the term of rights arising from defective performance and analyzes both the general legal regulation and special legal regulations of rights arising from defective performance, including their systematics, mutual relations, and theoretical basis. In the third part of the thesis, the multi-layered nature of the Czech legal regulation of rights arising from defective performance and the application of the relevant legal regulation is demonstrated on practical examples. The fourth part of the thesis is devoted to the comparison of the standards of the legal protection of subjects of obligation and considerations *de lege ferenda*.

The aim of this diploma thesis is to *de lege lata* clarify the confusing and complicated nature of the Czech legal regulation of rights arising from defective performance, to determine as accurately as possible which legal regime, respectively which legal regimes of rights arising from defective performance shall apply in which modality of the obligation and to compare the standards of the legal protection of different subjects of obligations.

Keywords

rights arising from defective performance, defect, inequality of subjects of the obligation, legal protection of subjects of the obligation